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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/551,682

09/29/2005

Jean News

MI 6097 (US)

5600

34872

7590

04/01/2008

Basell USA Inc.

Delaware Corporate Center II

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Wilmington, DE 19803

EXAMINER

TESKIN, FRED M

ART UNIT

PAPER NUMBER

1796

MAIL DATE

DELIVERY MODE

04/01/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/551,682	<b>Applicant(s)</b> NEWS ET AL.	
	<b>Examiner</b> Fred M. Teskin	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 1 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>20060414</u> .  | 6) <input type="checkbox"/> Other: ____.                          |

The preliminary amendment filed 29 September 2005 has been entered. Claims 1-7 are currently pending and under examination herein.

Claim 1 is objected to because of the following informalities: a typographical error is noted in line 3, viz., "copoloymer". Appropriate correction is required.

Claims 1-7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The reference in claim 1 to "said fraction insoluble in xylene at 25°C has an intrinsic viscosity from 1.8 to 4.2 dl/g" is confusing and appears in error inasmuch as the supporting disclosure only mentions such viscosity values in characterizing the fraction *soluble* in xylene at 25°C. See the Specification at page 2, line 8 and page 16, subparagraph B) and Cf. claim 1, final three lines. Clarification and appropriate correction are required.

The prior art made of record and not relied upon is considered pertinent to applicants' disclosure. Pelliconi et al is cited as pertinent to polymer compositions comprising (A) from 70 to 98 parts by weight of a crystalline propylene homopolymer or crystalline random copolymer of propylene with ethylene and/or C<sub>4</sub>-C<sub>10</sub> α-olefins, containing from 0.5 to 10 % by weight of ethylene and/or α-olefins [fraction (A)]; and (B)

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from 2 to 30 parts by weight of elastomeric copolymer of ethylene with one or more C<sub>4</sub>-C<sub>10</sub>  $\alpha$ -olefins, containing from 60 to 85 % by weight of ethylene, and partially soluble in xylene at 25°C [fraction (B)] (col. 2, lines 15+). In all the specifically disclosed embodiments, ethylene content of fraction (B) is 65 or 70 wt% (Table 3), and therefore the corresponding  $\alpha$ -olefin content (35 or 30 wt%) is at least 5 wt% below the lower endpoint recited in applicants' claim 1 for weight % of propylene or  $\alpha$ -olefin in component (B) of the claimed composition. Further, the reference is silent as to TREF profile and therefore provides no basis to expect that a fraction (B) copolymer containing 60 wt% ethylene would afford a polymer composition possessing the TREF profile requisite to the present invention.

Claims 1-7 are free of the prior art of record.

Any inquiry concerning this communication or should be directed to Examiner F. M. Teskin whose telephone number is (571) 272-1116. The examiner can normally be reached on Monday through Thursday from 7:00 AM - 4:30 PM, and can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached on (571) 272-1114. The appropriate fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Fred M Teskin/

Primary Examiner, Art Unit 1796